

*Atlantic States Marine Fisheries Commission*

**Coastal Sharks Technical Committee**

**Review of Smooth Dogfish Year Round Processing At Sea Request**

June 15, 2012

Present: Russ Babb (ND DEP), Carolyn Belcher (GA CRD, VC), Bryan Frazier (SC DNR), Karyl Brewster-Geisz (NMFS HMS), Julie Neer (SAFMC), Eric Schneider (RI DFW), Greg Skomal (MA DMF, Chair), Holly White (NC DMF), Chris Vonderweidt (ASMFC Staff), Angel Willey (MD DNR), and Brent Winner (FWC).

The Coastal Sharks Technical Committee (TC) held a conference call to review a request by New Jersey commercial fishermen to allow the removal of all smooth dogfish fins at sea at all times of the year. Section 2.3.1 of Addendum I, Smooth Dogfish Processing at Sea, allows commercial fishermen to completely remove all smooth dogfish fins at sea from March - June with a max 5% fin to carcass ratio; the dorsal fin and tail must remain attached naturally to the carcass from July - February. The Board initially discussed this request during their meeting in May, 2012 but requested TC review prior to initiating any management measures. The TC's recommendations follow.

**Background:**

The meeting began with ASMFC staff providing a review of the ASMFC smooth dogfish commercial processing at sea regulations and the history of their development. The 2008 Interstate Fisheries Management Plan for Atlantic Coastal Sharks (FMP) initially required that commercially caught smooth dogfish have all fins attached naturally to the carcass through landing. The current regulations that allow processing at sea from March – June were developed in Addendum I as a combination of a hybrid option developed by the TC, and a North Carolina analysis.

During Addendum I development, the TC expressed concern that juvenile sandbar sharks could be misidentified as smooth dogfish, thereby resulting in mortality of sandbar sharks. Rebuilding the sandbar population was a major driver behind the FMP's final regulations that classify sandbar shark as a research-only species with commercial harvest prohibited. However, the TC also understood that commercial fishermen need to gut and ice smooth dogfish quickly to prevent spoil. As a hybrid option, the TC recommended allowing commercial fishermen to remove the pelvic, pectoral, anal, and second dorsal fins, but keep the tail and dorsal fin attached. The TC believed that fishermen would be able to quickly gut the fish by cutting down the belly (removing the pelvic and pectoral fins); the dorsal fin and tail would allow law enforcement to distinguish smooth dogfish from sandbar sharks.

Around this time, North Carolina submitted a memo with an analysis showing that sandbars are not landed in North Carolina from March – June, so classifying smooth dogfish as sandbars would not be an issue during these months. The TC reviewed the memo and expressed concern

that the seasonality of the sandbar fishery varies by state and the North Carolina data are not applicable for management of the entire coast.

Addendum I final measures are as follows:

### **2.3.1 Smooth Dogfish Processing at Sea**

This Addendum replaces *Section 4.3.1.1 Finning and Identification* of the FMP with the following language, which grants commercial fishermen a limited exemption from the fins attached rule for smooth dogfish only.

#### *4.3.1.1 Finning and Identification*

All sharks, with the exception of smooth dogfish, harvested by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. Sharks may be eviscerated and have the heads removed. Sharks may not be filleted or cut into pieces at sea.

Commercial fishermen may completely remove the fins of smooth dogfish from March through June<sup>1</sup> of each year. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel. This ratio is consistent with the Shark Finning Prohibition Act of 2000.

From July through February for the smooth dogfish fishery only, commercial fishermen may completely remove the head, tail, pectoral fins, pelvic (ventral) fins, anal fin, and second dorsal fin, but must keep the dorsal fin attached naturally to the carcass through landing<sup>2</sup>. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.

In addition to covering the history and development of Addendum I smooth dogfish regulations, ASMFC staff reminded the TC of provisions in the Shark Conservation Act of 2012 (SCA), which the NMFS Highly Migratory Species Division (HMS) intends to implement in an upcoming rulemaking. Specifically, the SCA amends the Magnuson Stevens Act to prohibit:

- Removal of any fins of a shark (including the tail) at sea.
- Possession of any shark fin at sea unless it is naturally attached to a corresponding carcass.

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<sup>1</sup> Sandbar sharks are generally not landed during these months. See section 2.1.2 and Table 2 for more information.

<sup>2</sup> Historically, both sandbar and smooth dogfish have been landed during these months. During the development of this addendum, concern was raised that juvenile sandbars can be confused with smooth dogfish and allowing removal of all fins could open enforcement loopholes. The Technical Committee strongly supported requiring the dorsal fin to remain attached because doing so makes identification quick and accurate, and is necessary with a high volume fishery.

- Transferring (or receiving) any such fins from one vessel to another unless the fins are naturally attached to a corresponding carcass.
- Landing any such fin that is not naturally attached to carcass or landing a shark carcass without fins that are naturally attached.

The SCA also includes a smooth dogfish-specific savings clause specifying:

- The above amendments do not apply to individuals engaged in commercial fishing for smooth dogfish
- Between shore and 50 nautical miles from shore.
- If individual holds valid state commercial fishing license.
- And total weight of fins does not exceed 12% of total weight of smooth dogfish carcasses.

Following the summary of the SCA, the NMFS HMS TC member updated the TC on the rulemaking progress. She informed the TC that the HMS Management Division is working out some of the details of the SCA related to the enforcement action that is triggered when the 12% is exceeded as well as what constitutes a “valid state commercial fishing license” or “engaged in commercial fishing”. Additionally, there are other issues, such as completing a Biological Opinion under Section 7 of the Endangered Species Act for the smoothhound fishery, that the Agency is working through before this rule will be published. As a result, the SCA rule regarding the smoothhound fishery may not be implemented until 2013.

#### **TC Discussion and Recommendations:**

The TC discussed the request in two parts: 1) Smooth dogfish identification, if smooth dogfish logs (fins, head, and tail removed) can be differentiated from sandbar logs; and 2) Appropriate fin to carcass ratio.

##### *Smooth Dogfish Identification:*

With proper training, smooth dogfish logs are distinguishable from sandbar and other shark species. Specifically, smooth dogfish can be identified based on the length of the second dorsal fin base, which is  $\frac{3}{4}$  the length of the first dorsal fin base; the second dorsal fin is much larger than the anal fin. In contrast, the second dorsal fin in the sandbar sharks is much smaller than the first dorsal fin and about the same size as the anal fin.

As long as enforcement is adequately trained to identify smooth dogfish logs, the TC does not oppose allowing commercial fishermen to remove all smooth dogfish fins at sea. However, the ***TC strongly opposes allowing processing at sea if the fin to carcass ratio is set too high.*** Establishing a fin to carcass ratio that is greater than the ratio specific to smooth dogfish creates a loophole that allows fishermen to fin (cut off and keep fins, throw carcass overboard) additional sharks. For example, if the fin to carcass ratio is set 4% greater, a fisherman could add an additional 4% weight of fins from other species of sharks. The smooth dogfish commercial fishery is high volume and exceeding the appropriate fin to carcass ratio by even 1% could allow for a significant weight of additional fins to be landed. Currently the appropriate smooth dogfish fin to carcass ratio is unknown.

### *Appropriate Fin to Carcass Ratio*

As described above, allowing commercial fishermen to process smooth dogfish at sea with an inaccurate smooth dogfish fin to carcass ratio would create a loophole that allows for finning. Unfortunately, there are no robust analyses that have looked at smooth dogfish fin to carcass ratios to guide the TC's recommendation. The TC discussed the paper "Preliminary Reassessment of the Validity of the 5% Fin to Carcass Weight Ratio for Sharks" by Cortes and Neer (2006) and a North Carolina memo that discusses smooth dogfish fin to carcass ratios. The former paper begins by explaining how the 5% fin to carcass ratio was included in the 1993 U.S. Fishery Management Plan (FMP) for Sharks of the Atlantic Ocean based on the wet fin to carcass ratio of 12 sandbar shark specimens. The paper presents fin to carcass ratios for several shark species and calculated a 3.51% fin to carcass ratio for smooth dogfish (*Mustelis canis*) based on 6 samples.

The TC does not endorse 3.51% as the appropriate smooth dogfish fin to carcass ratio with a sample size of only 6 fish. However, the results are considerably lower than the 12% in the SCA which may indicate that the correct ratio lies somewhere in between.

The North Carolina Memo presents an analysis of NC Trip Ticket fin and carcass weights by trip from 2004 – 2009 and finds that the fin to carcass ratio varied from 9.8 – 10.4%. The TC does not endorse the results of the NC trip ticket because the weights were not observed by North Carolina Department of Marine Resources staff and was calculated from the bulk sum of all fish caught on a trip (as opposed to weighing each individual fish). However, similar to the Neer and Cortes paper, the TC agrees that the NC Memo results indicate that the correct ratio is likely different from the current 5%.

### *Development of an Appropriate Fin to Carcass Ratio*

TC members from Massachusetts, New Jersey, North Carolina, and South Carolina agreed to begin weighing individual smooth dogfish as a comprehensive study to determine a scientifically valid smooth dogfish fin to carcass ratio. Members from these states will develop a method to collect weights and will work with industry to cut the fins as commercial fishermen do. Members agreed that this study could be completed in 3 – 6 months and hope that managers postpone action on smooth dogfish regulations until after the correct weight is determined.

Preliminary discussions indicate that the following will be considered and possibly incorporated into methodology of the study:

- Work with fishermen to determine how smooth dogfish are processed at sea and mimic that technique.
- Standardization of processing techniques (in absence of regional cutting differences). Differences such as a straight or curved cut can impact %.
- Look at fin to carcass ratios of individual animals. This will provide estimates of variability between individuals.